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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91214528
Party	Plaintiff Shirley's World, L.P.
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Date	03/06/2014
Attachments	Consented Motion 85723707.pdf(14417 bytes )

**THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

**In the Matter of Application Serial No. 85723707**

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Shirley's World, L.P.,

Opposition No.  
91214528

Opposer,

- against -

Earl C.J. Prater,  
Applicant

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**OPPOSER'S CONSENTED MOTION  
TO REOPEN AND EXTEND DEADLINES FOR 60 DAYS**

**I. The Parties' Request.**

Pursuant TBMP §501.01 and §509.01, Opposer, Shirley's World, L.P., on the one hand, and applicant, Earl C.J. Prater, on the other hand (collectively, the "Parties"), have agreed to reopen and/or extend the deadline for Applicant to file his Answer, and to extend all remaining deadlines prescribed by the Board in this proceeding by sixty (60) days.<sup>1</sup> Accordingly, the Parties request an order that the dates for this consolidated proceeding be reset, as follows:

Answer Due:	4/27/2014
Deadline for Discovery Conference	5/27/2014
Discovery Opens	5/27/2014
Initial Disclosures Due:	6/26/2014
Expert Disclosures Due:	10/24/2014

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<sup>1</sup> Pursuant to TBMP §501.02, Respondent has given his oral consent to this Motion, which supersedes Applicant's request for a 60-90 day extension of time (which he filed on February 26, 2014).

Discovery Closes:	11/23/2014
Plaintiff's Pretrial Disclosures:	1/17/2015
Plaintiff's 30 Day Trial Period Ends:	2/21/2015
Defendant's Pretrial Disclosures:	3/8/2015
Defendant's 30 Day Trial Period Ends:	4/22/2015
Plaintiff's Rebuttal Disclosures:	5/7/2015
Plaintiff's 15 Day Rebuttal Period Ends:	6/6/2015

This extension is requested so as to provide the Parties with a window of opportunity to attempt to negotiate a settlement of the contested issues raised in this proceeding without the need to proceed before the Board.

**II. Good Cause Exists To Grant This Consented Motion.**

This Motion is made prior to the expiration of all deadlines, with the exception of the February 26, 2014 deadline for Applicant to file an Answer to the Opposition. However, it should be noted that Applicant filed a request for a 30 – 60 day extension of time to file his Answer on the day it was due, i.e., February 26, 2014. This Consented Motion supersedes Applicant's previous request.

The standard for allowing an extension of a prescribed period prior to the expiration of that period is good cause. See Fed. Rule Civ. Proc. 6(b)(1). Ordinarily, the Board is liberal in granting extensions of time before the period to act has elapsed, so long as the moving party has not been guilty of negligence or bad faith and the privilege of extensions is not abused. American Vitamin Products, Inc. v. DowBrands, Inc., 22 USPQ 2d 1312, 1314 (TTAB 1992). Moreover, as made applicable by Trademark Rule 2.116(a), the relevant provisions of Fed. Rule

Civ. Proc. 6(b) permit the Board in its discretion to reopen a past deadline where the failure to act is shown to be due to excusable neglect. American Vitamin Products, 22 USPQ 2d at 1313.

Here, good cause exists to grant the stipulated extension as to all deadlines, including the deadline for Applicant to file an Answer to the Opposition. The Parties verbally agreed to an extension of time on February 18, 2014 – more than a week before Applicant’s Answer was due. A stipulation was not presented to the Board at that time, however, because the Parties sought clarification from the Interlocutory Attorney as to how to achieve a global extension of all deadlines (not only the deadline to file and serve the Answer). Thereafter, the Parties engaged in good faith negotiations regarding the appropriate length of time to extend all deadlines. Those negotiations lasted longer than expected due to a variety of reasons, none of which were based upon bad faith, negligence, or tactics solely designed to delay.

**III. Conclusion.**

The Parties respectfully request that the Board agree to their stipulated sixty (60) day extension of time for all deadlines at issue so that they may take the time needed to explore potential settlement opportunities.

Dated: March 6, 2014

EISNER JAFFE  
GORRY CHAPMAN & ROSS

By: /s/ Jackie M. Joseph  
Jackie M. Joseph  
Attorneys for Opposer, Shirley’s World,  
L.P.

**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing **OPPOSER'S CONSENTED MOTION TO REOPEN AND EXTEND DEADLINES FOR 60 DAYS** was served upon Respondent in this action addressed as follows:

Mr. Earl C.J. Prater  
Respondent, acting on his own behalf  
P.O. Box 51542  
Sparks, NV 89435-1542

**BY MAIL.** I am readily familiar with the firm's practice of collection and processing correspondence for mailing with the U.S. Postal Service. Under that practice such envelope(s) is deposited with the U.S. Postal Service on the same day this declaration was executed, with postage thereon fully prepaid at 9601 Wilshire Boulevard, Suite 700, Beverly Hills, California 90210, in the ordinary course of business.

Executed on March 6, 2014, at Beverly Hills, California.

EISNER JAFFE  
GORRY CHAPMAN & ROSS

By:   /s/ Jackie M. Joseph    
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